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**S.B. CIVIL MISC. APPEAL NO.310/1998
(Sahiram & ors. Vs. Gavara Devi & ors.)**

Date of Order :: 14th February 2007

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.B.L.Maheshwari for the appellants.

Mr.K.K.Bissa for the respondents

Smt.Gavara Devi and Bhagwana Ram, respondents No.1 and 3/3 present in person.

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Learned counsel for the parties have placed on record a deed of compromise and submit that as against the award made by the Tribunal in sum of Rs.1,82,000/-, the appellants have in all made payment of amount of Rs.1,45,000/- that has been agreed to by the parties as full and final payment against the award of compensation; and that the award may be re-stated accordingly.

Learned counsel Mr.K.K.Bissa on instructions submits that an amount of Rs.25,000/- deposited by the appellants under No Fault Liability has already been received by the claimants; and that further amount of Rs.25,000/- deposited by the appellants while filing this appeal and another amount of Rs.25,000/- deposited by the appellants in terms of the orders passed by this Court are lying in deposit with the Tribunal; and that a further amount of Rs.70,000/- has been paid in cash by

the appellants that is available with the respondent Bhagwana Ram at present and the claimants are ready to make deposit of the amount as directed by the court.

For accidental death of Manakaram, about 24 years in age and said to be working as agriculture-labourer, the Tribunal, in its impugned award dated 27.10.1997, has awarded compensation in the sum of Rs.1,82,000/- together with interest @ 12% per annum taking his annual income at Rs.15,000/- and loss of dependency at Rs.10,000/- per annum and with application of multiplier of 17 and after allowing Rs.10,000/- towards non-pecuniary loss and Rs.2,000/- towards funeral expenses. Under the award impugned, the Tribunal has apportioned 40% of the amount to the claimant No.1, wife of the deceased, 30% to the claimant No.2, son of the deceased and remaining 30% to the claimant No.3 father of the deceased, since deceased and represented by his legal representatives.

Having regard to the overall facts and circumstances of the case, the proposition of settlement as put forward by the parties though operates in reduction of the amount of compensation as awarded by the Tribunal but cannot be said to be falling too short of just compensation admissible in this

case and having regard to the circumstances of the case, this Court is of opinion that the proposition of settlement as put forward by the parties deserves acceptance, however, with modification of the manner and proportion of disbursement as ordered by the Tribunal.

Accordingly, this appeal succeeds to the extent agreed to by the parties and is partly allowed. The award of compensation is made finally in the sum of Rs.1,45,000/- in favour of the claimants.

The claimants have already received Rs.25,000/- under No Fault liability and out of the remaining Rs.1,20,000/-, an amount of Rs.50,000/- is said to be available in deposit with the Tribunal and another amount of Rs.70,000/- is said to be available in cash with the claimants. Having regard to the facts and circumstances of the case, it is considered appropriate and hence ordered that the amount of Rs.50,000/- available in deposit with the Tribunal shall be put in Monthly Income Scheme of Post Office for a minimum period of six years in the name of claimant No.2 Dungarram son of the deceased through his natural guardian, mother. Out of the amount of Rs.70,000/- now received by the claimants, a sum of Rs.50,000/- shall be placed in Monthly

Income Scheme of Post Office in the name of claimant No.1 Gavara Devi for a minimum period of six years and particulars thereof shall be furnished to the Tribunal within four weeks from today. Remaining amount of Rs.20,000/- may be retained cash by the claimants. There shall be no order as to costs of this appeal.

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(DINESH MAHESHWARI), J.